

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MANUEL TORRES,

Plaintiff,

vs.

No. CIV 20-0815 JB/LF

PENITENTIARY OF NEW MEXICO;
WARDEN FRANCO; WARDEN TRUJILLO;
WARDEN WILLIAMS; JOHN DOE and JANE
DOE MEDICAL STAFF; JOHN DOE and
JANE DOE CORRECTIONS OFFICERS; THE
GEO GROUP, INC; CORIZON, INC. and
SANTA FE COUNTY ADULT
CORRECTIONAL FACILITY,

Defendants.

ORDER¹

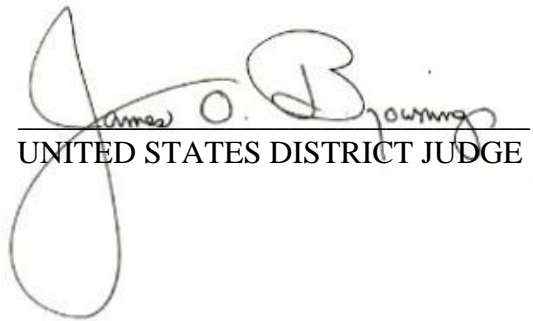
THIS MATTER comes before the Court on Defendant Santa Fe County Adult Correctional Facility's Motion to Dismiss Plaintiff's Complaint, filed October 7, 2020 (Doc. 29)("MTD"). The Court held a hearing on February 24, 2021. See Clerk's Minutes at 1, filed February 24, 2021 (Doc. 40). The primary issues are whether the Court should dismiss Defendant Santa Fe County Adult Correctional Facility, because: (i) the New Mexico Legislature has not waived Santa Fe Correction Facility's immunity under the New Mexico Tort Claims Act, N.M.S.A. §§ 41-4-9 and 41-4-12 ("NMTCA"); (ii) the NMTCA's two-year statute of limitations bars Plaintiff Manuel Torres' tort claims against Santa Fe Correction Facility, see N.M.S.A. § 41-4-15(a); (iii) N.M.S.A. § 37-1-23 bars Torres' breach-of-contract claim; and (iv) Torres has not

¹This Order disposes of Defendant Santa Fe County Adult Correctional Facility's Motion to Dismiss Plaintiff's Complaint, filed October 7, 2020 (Doc. 29). The Court will issue at a later date, however, a Memorandum Opinion more fully detailing its rationale for this decision.

stated a plausible claim for relief under 28 U.S.C. § 1983. The Court concludes that it will dismiss Santa Fe Correction Facility, because: (i) N.M.S.A. §§ 41-4-9 and 41-4-12 do not waive Santa Fe Correction Facility's immunity under the NMTCA, because (a) Torres does not allege that Santa Fe Correction Facility provided him with medical treatment, see N.M.S.A. § 41-4-9; Complaint for Medical Malpractice, Assault & Battery, Negligence, Negligence Per Se, Negligent Hiring, Training Supervision & Retention, Breach of Contract, Depr[ivat]ion Of Civil Rights, Civil Rights Violations (8th & 14th) State Claims and Person[a] Injury Damages ¶¶ 1- 37, at 1-7, filed August 13, 2021 (Doc. 1-1), and (b) Santa Fe Correction Facility is not a "law enforcement officer[]," N.M.S.A. § 41-4-12; (ii) the NMTCA's two-year statute of limitations bars Torres' tort claims; (iii) N.M.S.A. § 37-1-23 bars Torres' breach-of-contract claim, because Torres does not allege that Santa Fe Correction Facility is party to a written contract, see N.M.S.A. § 37-1-23(a), and N.M.S.A. § 37-1-23(b)'s statute of limitations has elapsed; and (iv) Torres has not stated a plausible claim for relief under 42 U.S.C. § 1983, because Torres does no mention Santa Fe Correction Facility and does not allege which Santa Fe Correction Facility official committed what act depriving Torres of his rights. See Transcript of Hearing at 9:8-16 (taken February 24, 2021)(Court);² id. at 13:3-9 (Court). See also Order, filed March 23, 2021 (Doc. 21)(dismissing Defendants Penitentiary of New Mexico, and Wardens Franco, Trujillo, and Williams for similar reasons).

IT IS ORDERED that Defendant Santa Fe County Adult Correctional Facility's Motion to Dismiss Plaintiff's Complaint, filed October 7, 2020 (Doc. 29), is granted.

²The Court's citations to the transcript of the hearing refer to the court reporter's original, unedited version. Any final transcript may contain slightly different page and/or line numbers.



UNITED STATES DISTRICT JUDGE

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